

Journal of Conventional Weapons Destruction

Volume 6
Issue 3 *The Journal of Mine Action*

Article 24

December 2002

Landmine Survivors and a Convention on the Rights of Persons With Disabilities

Akiko Ikeda
United Nations Mine Action Service (UNMAS)

Follow this and additional works at: <https://commons.lib.jmu.edu/cisr-journal>



Part of the [Defense and Security Studies Commons](#), [Emergency and Disaster Management Commons](#), [Other Public Affairs, Public Policy and Public Administration Commons](#), and the [Peace and Conflict Studies Commons](#)

Recommended Citation

Ikeda, Akiko (2002) "Landmine Survivors and a Convention on the Rights of Persons With Disabilities," *Journal of Mine Action* : Vol. 6 : Iss. 3 , Article 24.

Available at: <https://commons.lib.jmu.edu/cisr-journal/vol6/iss3/24>

This Article is brought to you for free and open access by the Center for International Stabilization and Recovery at JMU Scholarly Commons. It has been accepted for inclusion in Journal of Conventional Weapons Destruction by an authorized editor of JMU Scholarly Commons. For more information, please contact dc_admin@jmu.edu.

Landmine Survivors and a Convention on the Rights of Persons with Disabilities

Since the 56th Session of the General Assembly, advocates have worked hard to gain rights for persons with disabilities. Decisions made at the session have provided a number of opportunities for landmine victims and other disabled persons around the world.

by Akiko Ikeda, UNMAS

Introduction

Advocacy for a new international convention on the rights and dignity of persons with disabilities gained considerable momentum following the address delivered by President Fox of Mexico on 10 November 2001, at the 56th session of the General Assembly. In his speech, President Fox called upon the international community to combat poverty and social exclusion. He insisted that societies should involve all citizens as stakeholders and that a just world is an inclusive world.¹ Mexico then proposed the formation of a "special committee" to examine the elaboration of an international convention that would aim to promote and protect the rights and dignity of persons with disabilities.²

Over 600 million people, or approximately 10 percent of the world's population, have a disability of one kind or another. This includes the many survivors of landmine accidents. According to Landmine Monitor Report 2002, approximately 20,000 innocent victims continue to be killed or maimed each year by landmines in over 70 affected countries.³ Since landmines are primarily designed to cause severe injuries to their victims, they are considered "a major cause of disability."⁴

Most persons with disabilities do not have access to adequate medical care, rehabilitation services, trauma care programmes, and employment opportunities. Furthermore, they face discrimination from the societies in which they live and

are *de facto* excluded from both formal and informal labour markets. Such discrimination and exclusion is a clear violation of the fundamental human rights enshrined in the United Nations Charter, the Universal Declaration of Human Rights and other legal instruments. Within the framework of these instruments, all persons with disabilities ought to be recognised as full members of their societies with equal dignity.

This article examines how recent international developments have tried to further promote and protect the rights of persons with disabilities by shifting the attention away from a strictly medical/social welfare focus and bringing in a social and human rights approach to the problem. It also examines the implications of these developments for landmine survivors and the victim assistance community.

Historical Review – From the Medical to the Human Rights Approach

In the 1940s and 1950s, the United Nations as well as the wider international community approached the disability issue primarily from a medical and social welfare standpoint.⁵ It was then thought that what persons with disabilities needed most was a medical cure. As a result, persons with disabilities received some medical attention, but remained socially isolated—in mental institutions, for example, in the case of persons with mental disabilities. The policies developed at that time did little to address the exclusion problem, leading instead too often to institutionalisation.⁶

In the 1970s, a broader "social model" emerged, recognising that the medical model alone could not fully address the needs of persons with disabilities.⁷ This social model focuses on the social discrimination and barriers to which persons with disabilities are confronted, instead of focusing on their physical disabilities. It sees the problem not as residing in the persons with disabilities themselves, but as resulting from structures, practices and attitudes that prevent the individual from exercising his or her capabilities. Thus, the social model gives priority attention to the way persons with disabilities want to live and to the right they have to participate fully and equally in society.

A number of United Nations initiatives and meetings shaped the development of a human rights approach to the disability issue in the 1970s and 1980s.⁸ These include the adoption by the General Assembly, in 1982, of the World Programme of Action concerning Disabled Persons, which considered "equalization of opportunities" as a guiding principle.⁹ Eleven years later, in 1993, the General Assembly adopted the Standard Rules on the Equalization of Opportunities for Persons with Disabilities, a major outcome of the United Nations Decade of Disabled Persons (1982-1993).¹⁰ The Standard Rules consists of 22 Rules aimed at ensuring that all persons with disabilities can exercise their rights in the societies where they live.

By adopting the World Programme of Action and the Standard Rules at the UN General Assembly, Governments committed themselves to work towards the goal of equal opportunities for persons with disabilities. Although both instruments are "soft," i.e. non-binding, they have played a critical role in supporting the development of strategies, policies, and programmes that advance

the disability agenda locally, nationally and internationally.¹¹ According to the results of a survey reported by Mr. Bengt Lindqvist, the Special Rapporteur on Disability of the Commission for Social Development, 81 percent of the respondents' countries indicated that the Standard Rules had led to governmental initiatives promoting awareness and equality of persons with disabilities.¹²

The Ad Hoc Committee on rights and dignity of persons with disabilities and a new international convention

Since there are already a number of international instruments protecting the rights of persons with disabilities, the question of why we need a new international convention can be legitimately raised. As indicated earlier, the World Programme of Action and the Standard Rules are important and useful tools, but they are not binding. Governments may or may not respect and use them. The disabled community has therefore concluded that what is now required is a legally binding document, which will ensure that the human rights of persons with disabilities are recognized, protected and reflected in national laws and practices—a new instrument that should be comprehensive and based on the input of the persons with disabilities themselves.

In 2001, at its 56th session, the General Assembly adopted Resolution 56/168, which called for the establishment of an Ad Hoc Committee to "consider proposals for a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities."¹³ The first meeting of the Ad Hoc Committee was organized at the United Nations Headquarters in New York, from 29 July to 9 August 2002. The Disability Unit, Division for Social Policy and Development, of the UN Department of Economic and Social Affairs acted as secretariat for the Ad Hoc Committee.¹⁴ Overarching principles and rights, equality in civil and political rights, equality in economic, social and cultural rights, monitoring mechanisms, and other issues were discussed.

Several non-governmental organizations (NGOs), such as Disabled Peoples' International, Inclusion International, Madre Inc Landmine Survivors Network (LSN), Support Coalition International, World Blind Union and World Federation of the Deaf participated in the work of the Committee. In a significant development, the disability and human rights communities joined forces for the first time, as a "newly emerging community," to promote the fundamental and universal human rights of persons with disabilities.¹⁵ Differences of opinion remain, however, particularly amongst governments, regarding the need to elaborate a new convention. While the Government of Mexico is a strong advocate of the pro-convention movement and wants to see a concrete output at the end of the process (i.e. a convention), other governments merely support a "process" and work "toward" a convention.

To facilitate further discussions on this and other issues, the Ad Hoc Committee recommended the adoption of a new resolution at the 57th session of the General Assembly in the fall of 2002, and the organisation of additional meetings of the Ad Hoc Committee and of regional technical and expert groups.¹⁶

The human rights perspective and victim assistance

According to the "Guidelines for the Care and Rehabilitation of Survivors" developed by the International Campaign to Ban Landmines, victim assistance consists of nine activities: emergency medical care, continuing medical care, physical rehabilitation, prostheses and assistive devices, psychological and social support, employment and economic integration, capacity building and sustainability, legislation and public awareness, accessibility, and data collection.¹⁷ There have been in-depth discussions on most of these nine areas of activities, including medical and socio-economic reintegration issues. It seems, however, that the latter has received increased attention within the victim assistance community as a result of the development of the human rights approach to disability.

Earlier this year, for instance, a survey was conducted at the request of the co-chairs of the Standing Committee on Victim Assistance and Socio-Economic Reintegration to identify priority areas of work in which the Committee could make meaningful contributions over the next two years. The questionnaires were distributed to all focal points identified by States Parties to the Antipersonnel Mine Ban Convention, to major international organizations and non-governmental organizations, to groups of survivors, and to experts in the field of disability. In their responses to the survey questionnaire, landmine survivors consistently ranked employment and economic reintegration as their top priorities,¹⁹ while placing medical assistance in the sixth position from the list of nine proposed categories.

World Rehabilitation Fund, an NGO that implements socio-economic reintegration programmes for persons with disabilities and landmine survivors, confirms that what landmine survivors need most is socio-economic support:

"...the most acute needs of landmine survivors are not the medical rehabilitation services provided, but assistance in helping the survivors become productive community members and contribute to their families. Socio-economic reintegration, therefore, has been sorely neglected as an issue to be dealt with by national governmental initiatives or by international relief organization efforts."²⁰

A case study conducted in Cambodia by the Geneva International Centre for Humanitarian Demining (GICHD) in 2002 supports the same viewpoint. It notes that physical rehabilitation is "fairly well covered" in Cambodia where it is accessible to at least 80 percent of all persons with disabilities.²¹ There are 16 workshops across the country, operating in most of the mine-affected provinces. The Study indicates that what landmine survivors need is a job:

"Many NGO development schemes focus on poverty but do not include persons with disability in their activities, as it is sometimes naively believed that all persons with disability or mine victims need to be happy is a prosthesis and/or a wheelchair. In fact, what a person with disability

Landmine Survivors & Victim Assistance

Convention on the Rights of Persons with Disabilities

really needs is a job, as only around 20 percent of persons with disability are in a satisfactory economic situation.²²

Socio-economic issues were discussed from a human rights perspective at the January and May meetings of the Standing Committee on Victim Assistance and Socio-Economic Reintegration. Rehabilitation professionals, landmine survivors and other experts stressed that the right to income generation and gainful employment is a fundamental human right and is key to complete reintegration.²³ An overview of disability norms and standards was also presented, as well as updates on ongoing efforts to elaborate a convention on the rights of persons with disabilities.²⁴ This will be further discussed at future Standing Committee meetings.

Jerry White, executive director of Landmine Survivors Network (LSN), has been a particularly vocal advocate of a human rights approach to disability and victim assistance. On 12 June 2002, he presented his vision during a Forum of U.S. Grassroots Disability Organizations on the Development of an International Convention of the Rights of People with Disabilities:

"One day, governments worldwide will ratify a Convention on the Rights of People with Disabilities. When this happens, the world will be closer to the principle that all people are born free and live with dignity and rights. A new international Convention on the Rights of People with Disability will promote, protect and guarantee that everyone can enjoy equality, dignity and rights. It is a fundamental truth that if these rights are not available to everyone, then no one is free...The Convention we seek will state that people with disabilities are entitled to the same rights and opportunities as all citizens. No one, I repeat, no one has the power to give us our rights. They belong to us. We must claim them...I believe that a new international Convention on the Rights of People with Disabilities will guarantee that we share the same rights and enjoy equal protection under the law. No, a Convention is not the end-all, but will become an important milestone in our struggle for human rights...The Convention we seek will be a step toward justice and freedom for all."²⁵

The participation of LSN in the

work of the Ad Hoc Committee established under Resolution 56/168 is essential in that it is the only participating organization which represents landmine survivors.

Implications of the proposed convention for the victim assistance community

The adoption of a convention on the rights and dignity of persons with disabilities would have potentially three positive implications for the victim assistance community, landmine survivors in particular. First and foremost, it would draw additional international attention to persons with disabilities and help promote victim assistance activities. Significant progress has already been made in this regard with the entry into force of the Anti-Personnel Mine Ban Convention where, for the first time, the aspirations and needs of persons with disabilities—mine victims in this instance, are specifically addressed in an international humanitarian and disarmament law instrument.²⁶ Under Article 6 of Convention, States Parties "in a position to do so" have an obligation to "provide assistance for the care and rehabilitation, and the social and economic reintegration of mine survivors."²⁷ However, Article 6 does not impose an absolute obligation upon States Parties; it does not commit an affected State Party to provide assistance to its own citizens when they fall victim to landmines.²⁸ The proposed convention on the rights of persons with disabilities could therefore play a complementary role by making it legally binding for governments to assume responsibilities with regard to persons with disabilities and landmine survivors, and for providing them with the assistance they need.

The adoption of a convention on the rights and dignity of persons with disabilities could also have positive financial implications for landmine survivors. It could make it easier for landmine survivors to claim additional resources from existing social funds. A fund such as the Trust Fund for Human Security (TFHS) supports initiatives to address the protection of human security, various threats

to human lives, livelihoods, and dignity, including poverty, environmental degradation, conflicts, landmines, refugee problems, illicit drugs, and infectious diseases such as HIV/AIDS.²⁹ Because landmines pose a serious threat to human beings, TFHS is interested in projects related to survivor assistance. This interest would likely be enhanced by a new convention on persons with disabilities. Similarly, it is possible that a new convention could also benefit the United Nations Voluntary Fund on Disability³⁰ and other existing funds, which provide grants to initiatives for persons with disabilities, including landmine survivors.

Finally, it is hoped that a new convention on the rights and dignity of persons with disabilities would provide additional policy guidance to the victim assistance community. Many of the policy principles that need to be respected in order for victim assistance activities to be effective, are now well understood. They would benefit, however, from their inclusion in a legally binding international instrument. A new convention would recognise, for instance, that persons with disabilities and landmine survivors should be involved in the design, implementation and evaluation of development programmes as equal partners. According to Ronald Wiman, the process of development will be more effective and sustainable if "an inclusive approach" is adopted.³¹ In fact, such an approach is "a necessary prerequisite" for the achievement of economic and social development for a society as a whole.³² The convention would, therefore, promote the participation of persons with disabilities and landmine survivors in the development process.

Conclusion

The international community's approach to the disability issue has evolved significantly during the past decades. Instead of looking at the problem from a purely medical perspective, it now integrates a human rights perspective. This new perspective has received renewed attention with the proposal made by Mexico to elaborate a new international convention aimed at promoting and pro-

tecting the rights of persons with disabilities. Such a convention would help the victim assistance community by focusing drawing increased attention on all persons with disabilities, including landmine survivors; by providing additional resources in support of survivor assistance; and by confirming a number of important policy principles. It is therefore essential to ensure that landmine survivors, who are not just passive recipients of social welfare and charity but bearers of rights and freedom, are fully involved in all ongoing discussions concerning the new convention. As was recently noted by Adnan Al Aboudy, director of LSN Amman, Jordan, himself an amputee, "support for the human rights of landmine survivors is crucial in expediting their reintegration back into society as full and equal participants..."³³ ■

Endnotes

1. Speech by President Vincente Fox of Mexico, delivered at the United Nations during general debate of the fifty-six session of the General Assembly. 10 November 2001. New York.
2. This proposal was subsequently adopted by the General Assembly in resolution 56/168 of 19 December 2001. Throughout this paper, references to persons with disabilities include landmine survivors, persons with mental and physical disabilities, and persons with sensory disabilities.
3. International Campaign to Ban Landmines. *Landmine Monitor Report 2002*. (International Campaign to Ban Landmines. USA). Page 40.
4. "Compilation of international norms and standards relating to disability". Division for Social Policy and Development, United Nations Department of Economic and Social Affairs. Page 4 of "Rights of the victims of armed conflicts". 2002.
5. "Report of the United Nations Consultative Expert Group Meeting on International Norms and Standards Relating to Disability (Berkeley, 8-12 December, 1998) Division for Social Policy and Development, United Nations Department of Economic and Social Affairs. Page 1.
6. "Interregional seminar and symposium on international norms and standards relating to disability. Hong Kong, Special Administrative Region of China, 13-17 December 1997)." A/AC.265/CRP.3, of 15 July 2002. Division for Social Policy and Development, United Nations Department of Economic and Social Affairs. Page 26
7. "Report of the United Nations Consultative Expert Group Meeting on International Norms and Standards Relating to Disability". Page 1-2. Also see A/AC.265/CRP.3 of 15 July 2002.
8. Compilation of international norms and standards relating to disability. Division for Social Policy and Development. United Nations Department of Economic and Social Affairs. July 2002.

9. General Assembly resolution 37/52 of 3 December 1982.
10. General Assembly resolution 48/96 of 20 December 1993.
11. A/AC.265/CRP.3 Page 27 and 42.
12. A/52/351 of 16 September 1997. Para 27.
13. General Assembly resolution 56/168 of 19 December 2001.
14. See the Division's website at www.un.org/esa/socdev/enable for useful information on various disability issues.
15. Meeting with Ms. Akiko Ito, Chief, Disability Unit, Division for Social Policy and Development, 11 September 2002
16. General Assembly resolution 57/357 of 27 August 2002.
17. International Campaign to Ban Landmines. "Guidelines for the Care and Rehabilitation of Survivors". (ICBL, USA, 1999).
18. "Employment" has also been identified as one of three key disability initiatives by "Implementation of the World Programme of Action concerning Disabled Persons; Towards a Society for all in the Twenty-First Century". A/RES/52/82 of 12 December 1997.
19. Judith Dunne, United Nations Mine Action Service (UNMAS). "Analysis of the results of the questionnaire on Standing Committee priorities and contributions to victim assistance". Presentation at the Standing Committee on Victim Assistance and Socio-Economic Reintegration. 16-20 September 2002. Geneva.
20. World Rehabilitation Fund. "Guidelines for socio-economic integration of landmine survivors" (draft) *Providing assistance to landmine victims*. (Department of Foreign Affairs and International Trade, Canada, 2001). Chapter 3, Page 1.
21. *The Role of Mine Action in Victim Assistance*. (Geneva International Centre for Humanitarian Demining, Geneva. 2002) Page 36.
22. *Ibid*. Page 37.
23. "Summary Report (27-28 May, 2002) of the Standing Committee on Victim Assistance and Socio-Economic Reintegration. Intercessional programme 2001-2002" Page 2; and a "Final Report 2001-2002: Standing Committee on Victim Assistance and Socio-Economic Reintegration" APLC/MSP.4/2002/SC.21 of 19 July 2002. Page 3-4.
24. APLC/MSP.4/2002/SC.21 of 19 July 2002. Page 3.
25. Speech by Jerry White. "No more 'We and They', 'Us and Them' All are Born Free and Equal." Washington D.C., 12 June 2002.
26. *The Role of Mine Action in Victim Assistance*. Page 18.
27. Article 6, "Convention on the Prohibition of the Use, Stockpiling, production, and Transfer of Anti-Personnel Mines and on their Destruction". September 1997.
28. *The Role of Mine Action in Victim Assistance*. Page 10 and 14.
29. The Trust Fund for Human Security. (The Ministry of Foreign Affairs. Tokyo. 2002). Page 3.
30. The Fund was established pursuant to General Assembly resolution 32/133, in connection with preparations for the 1981 International Year of Disabled Persons. By its resolution 47/88,

the General Assembly decided that the Fund would continue beyond the United Nations Decade of Disabled Persons (1983-1992) as the United Nations Voluntary Fund on Disability. The Voluntary Fund particularly provides seed money grants to small-scale projects for persons with disabilities. See www.un.org/esa/socdev/enable/disunvf.htm for more details on this Fund.

31. Ronald Wiman. *The Disability Dimension in Development Action: Manual on inclusive planning*. (Helsinki, National Research and Development Center for Welfare and Health in Finland on behalf of the United Nations, 1996). Page 20.

32. A/AC.265/CRP.3 of 15 July. Page 37.

33. Disability Negotiations. Volume 1, #5 01 August, 2002

Contact Information

Ms. Akiko Ikeda
United Nations Mine Action Service (UNMAS)
New York, N.Y. 10017
Tel: 212 963-3822
Fax: 212 963-2498
E-mail: ikeda@un.org